

1
2 *E-filed 2/20/08*
3
4
5
6

7 NOT FOR CITATION
8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11 MARK HOUSTON,

No. C 07-00859 HRL

12 Plaintiff,

13 v. **ORDER TO SHOW CAUSE TO**
COUNSEL RE: SANCTIONS

14 COUNTRY COACH, INC.,

15 Defendant.

16 _____/

17 A Pretrial Conference was set for February 19, 2008, but was vacated due to plaintiff
18 counsel's eleventh hour notice of his inability to attend. Moreover, as indicated in the recently
19 issued "Preliminary Pretrial Conference Order," the court has serious concerns about both
20 parties' deficient submissions in response to this court's pretrial standing order obligations.
21 Accordingly, notice is hereby given to Terry L. Baker, counsel for plaintiff, and Kevin J. Tully,
22 counsel for defendant, that on March 13, 2008 at 1:30 PM each attorney shall appear and show
23 cause why he should not be sanctioned for the following:

24 As for Mr. Baker:

25 • Waiting until the last minute to advise the court that he had been summoned for
26 jury duty on the date scheduled for the Pretrial Conference;

27 • Not meeting and conferring with defense counsel 15 days before the due date of
28 the Joint Pretrial Conference Statement;

- 1 • Not filing a Joint Pretrial Conference Statement;
- 2 • Not filing a timely Pretrial Conference Statement;
- 3 • Not filing timely Motions in Limine;
- 4 • Not giving the substance of the testimony of any of his proposed witnesses;
- 5 • Not differentiating between witnesses he "intend[s]" to call and those he "may" call;
- 6 • Not giving any time estimate for presentation of his case, including cross examination; and
- 7 • Not providing a "detailed statement" of the relief sought (how does plaintiff calculate damages? does plaintiff intend to seek rescission?).

11
12 As for Mr. Tully:

- 13 • Not meeting and conferring with plaintiff's counsel 15 days before the due date of the Joint Pretrial Conference Statement;
- 14 • Not submitting a Joint Pretrial Conference Statement;
- 15 • Not giving the substance of the testimony of any proposed witnesses;
- 16 • Not differentiating between witnesses he "intend[s]" to call and those he "may" call;
- 17 • Not giving a "reasoned" time estimate to put on his case;
- 18 • Not giving the "substance or purpose" of exhibits and lumping "various repair orders" into single exhibit without explanation; and
- 19 • Not stating any proposed undisputed facts.

23
24 **IT IS SO ORDERED.**

25
26 Dated: 2/20/08



27
28 HOWARD LLOYD
UNITED STATES MAGISTRATE JUDGE

United States District Court

For the Northern District of California

1 THIS SHALL CERTIFY THAT NOTICE WILL BE SENT TO:
2

3 Terry L. Baker tbaker@consumerlawgroup.net
4

5 Kevin J. Tully kevin@tullylaw.net, jeanine@tullylaw.net, julie@tullylaw.net
6

7 * Counsel are responsible for providing copies of this order to co-counsel who have not
8 registered for e-filing.

9 Date: 2/20/08

10 KRO
11 Chambers of Magistrate Judge Howard R. Lloyd

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28